IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 5202 OF 2005

Rajan Ankush Tiwatne. ... Applicant.
Versus.
The State of Maharashtra. ... Respondent.

Shri P.K.Dhakephalkar with Shri S.V.Dhakephalkar for the Applicant.

Shri R.Y.Mirza, A.P.P. for the Respondent.

CORAM : ABHAY S. OKA, J.

DATED : 9th Sept., 2005.

P.C.:

1. Heard the Advocate for the Applicant and the learned A.P.P. for the State. The offence alleged against the Applicant and co-accused are under sections 376(G), 506, 507 read with 34 of the Indian Penal Code. Admittedly the investigation is complete and charge sheet has been filed long back.

2. The learned Advocate for the Applicant submitted that there is a gross delay in filing the F.I.R. and considering the material brought on record by the prosecution, a case is made out for enlarging the Applicant on bail. The learned A.P.P. opposed the application by pointing out relevant material on record.

3. I have considered the submissions. On a plain reading of the F.I.R., prima-facie, there is merit in

the submission of the learned Advocate for the Applicant regarding the gross delay. Since allegation is as regards commission of offence under section 376 (g) of the I.P.C., the delay by itself may not be fatal to the prosecution. Nevertheless it is a relevant consideration for considering the application for bail. The F.I.R. is registered on 20th April 2005 and the incident had taken place in December 2004. The co-accused has filed a complaint against the prosecutrix under section 138 of the Negotiable Instruments Act, 1881 on 4th April 2005.

4. The investigation is completed and charge sheet has been filed. There are no criminal antecedents of the Applicant brought on record. Considering the peculiar facts of the case, the Applicant deserves to be enlarged on bail.

5. Hence the following order is passed:

(i) The Applicant shall be enlarged on bail in connection with C.R.No. 250 of 2005 registered with Kothrud Police Station, Pune, subject to furnishing a personal bond of Rs.15,000/- with one or two local sureties in the like amount.

(ii) Bail is granted subject to the condition

that the Applicant will report to the concerned Police Station on every Sunday till conclusion of trial.

(iii) The Bail is granted subject to condition that the Applicant shall not, directly or indirectly, make any inducement or threat to any prosecution witnesses and shall not in any manner tamper with prosecution evidence.

(iv) The Applicant shall cooperate with the learned Trial Judge for expeditious disposal of the trial. Any attempt by the Applicant to delay the trial may be a ground for cancellation of bail.

(v) Any observation made in this order shall not be construed as any finding or any expression of opinion on the merits of the case at the time of trial.

(vi) Application is disposed of in above terms.

Judge.